

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

William R. Parke & Margaret V. Parke	:	
	:	CHAPTER THIRTEEN
Debtors	:	Case No. 1:07-bk-00322
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Charles J. DeHart, III,	:	
Standing Chapter 13 Trustee	:	
Movant,	:	
v.	:	{ <b>Nature of Proceeding:</b> Chapter 13
	:	Trustee's Motion for Reconsideration}
William R. Parke & Margaret V. Parke,	:	
Respondents	:	

**OPINION**

Presently before the Court is the Chapter 13 Trustee's Motion for Reconsideration of this Court's Order denying confirmation of the Debtors' Chapter 13 Plan and the Debtors' Answer thereto.

The Debtors have, subsequent to that Order, filed an amended plan rendering the Trustee's previous objection moot. Pursuant to 11 U.S.C. §1323(b)<sup>1</sup>, this new plan becomes the plan for purposes of confirmation.

"A case will be considered moot, and therefore nonjusticiable as involving no case or controversy, if the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *In re Surrick*, 338 F.3d 224, 229 (3d Cir. 2003) citing *In re Kulp Foundry, Inc.*, 691 F.2d 1125, 1128 (3d Cir. 1982). Here, given that the amended plan will be considered the ultimate plan, the Trustee's objections to the terms of the old plan no longer present a 'live' controversy.

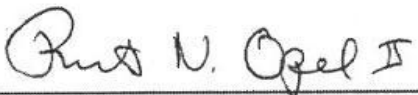
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<sup>1</sup>11 U.S.C. §1323(b) governs modification of plans prior to confirmation and states "(b) After the debtor files a modification under this section, the plan as modified becomes the plan."

Furthermore, the Court will refrain from issuing advisory opinions regarding whether or not the Chapter 13 Trustee is now collaterally estopped from objecting to the amended plan. See *Armstrong World Indus. Inc. v. Adams*, 961 F.2d 405, 410 (3d Cir. 1992). (“Article III, section 2 of the United States Constitution . . . stands as a direct prohibition on the issuance of advisory opinions”).

Therefore the Trustee’s Motion for Reconsideration will be denied. An order will be entered consistent with this Opinion.

Date: June 26, 2007

  
**Robert N. Opel, II, Bankruptcy Judge**

*This opinion is electronically signed and filed on the same date.*

(BI)